

IN THE  
Court of Appeal of the State of California

IN AND FOR THE  
Fifth Appellate District

**F045300      People v. Ribera**

The judgment is affirmed. Wiseman, J.

We concur: Vartabedian, Acting P.J.; Levy, J.

[CERTIFIED FOR PARTIAL PUBLICATION]

**F045814      Kelstrom v. Riel et al.**

The judgment is affirmed. Costs are awarded to defendants.  
Wiseman, J.

We concur: Vartabedian, Acting P.J.; Levy, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F048441      Melissa M. v. The Superior Court of Tulare County; Tulare County Health  
and Human Services Agency**

The petition for extraordinary relief is denied.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F047899      In re A. B., et al., Minors**

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

IN THE  
Court of Appeal of the State of California

IN AND FOR THE  
Fifth Appellate District

**F047899      In re A.B. et al., Minors**

The judgment is affirmed.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F048262      People v. Alba**

No brief having been filed by appellant after notice duly given under rule 17(a)(1) of the California Rules of Court, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

**F048304      Elazegui v. The Dept. of Health Services for the State of California**

No brief having been filed by appellant after notice duly given under rule 17(a)(1) of the California Rules of Court, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

**F048319      People v. Diaz**

No brief having been filed by appellant after notice duly given under rule 17(a)(1) of the California Rules of Court, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

**F046217      Pineda, Jr. v. Pineda**

The above-captioned appeal is dismissed.

We have no discretion to relieve a party from the duty of filing a notice of appeal on time. (Cal Rules of Court, rule 2(a).) The order of dismissal in this case was filed and mailed to appellant on February 20, 2004, by the Clerk of the Superior Court of Kern County. On February 27, 2004, the court entered judgment against appellant and mailed to appellant a file-stamped document titled "Order Dismissing Action" which "Ordered, Adjudged and Decreed" that his action was dismissed with prejudice. The Notice of Appeal is file stamped August 26, 2004. The notice of appeal here is untimely under either the 60 day deadline for filing the appeal from the mailing of the file-stamped judgment or, even if we were to assume some error with the mailing of the judgment, the appeal is also one day delinquent in meeting the later 180 day deadline following the entry of judgment.

Timely filing of an appropriate notice of appeal in a civil case is an absolute prerequisite to the exercise of appellate jurisdiction.

Failure to file a timely notice requires this court to dismiss the appeal.

IN THE  
Court of Appeal of the State of California

IN AND FOR THE  
Fifth Appellate District

**F048003      People v. Xiong**

Appellant having filed an abandonment and/or request for dismissal of appeal, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.